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9 Attorneys for Chapter 11 Debtor and  
10 Debtor-in-Possession

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**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**SANTA ANA DIVISION**

In re:

THE SOURCE HOTEL, LLC, a  
California limited liability company,  
  
Debtor and Debtor in Possession.

Case No.: 8:21-bk-10525-ES

Chapter 11

**DEBTOR'S CHAPTER 11 STATUS  
REPORT; DECLARATION OF DONALD  
CHAE IN SUPPORT THEREOF**

Status Conference:

Date: May 6, 2021

Time: 10:30 a.m.

Place: ZoomGov

**TO THE HONORABLE ERITHE A. SMITH, UNITED STATES BANKRUPTCY  
JUDGE, THE UNITED STATES TRUSTEE, ALL SECURED CREDITORS, TWENTY  
LARGEST UNSECURED CREDITORS, AND ALL PARTIES WHO HAVE  
REQUESTED SPECIAL NOTICE IN THIS CASE:**

The Source Hotel, LLC, a California limited liability company and the chapter 11 debtor and debtor-in-possession herein (the “Debtor”), hereby files this status report (the “Status Report”) in compliance with this Court’s *Order: (1) Setting Hearing On Status Of Chapter 11 Case; And (2) Requiring Report On Status Of Chapter 11 Case* [Doc. No. 6] (the “Status Conference Order”) and in advance of the Chapter 11 status conference scheduled on May 6, 2021.

## I.

## DESCRIPTION OF DEBTOR AND ITS PRINCIPAL ASSETS AND LIABILITIES

The Debtor filed a voluntary petition for relief under Chapter 11 of 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”) on February 26, 2021 (the “Petition Date”). The Debtor is continuing to manage its financial affairs and operate its bankruptcy estate as a debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

Since at least 2014, Debtor has been developing a full-service, seven-story hotel with 178 rooms in the City of Buena Park, County of Orange, State of California (the “Hotel”), which upon completion will include conference rooms, an executive lounge, fitness center, restaurant, bars, and cleaning services. The Hotel is part of a larger 12.8-acre mixed-use development project (the “Master Development”), which includes a 400,000 square-foot retail center and a 50,000 square-foot seven-story office building which were completed in 2016. The Debtor does not own the real property on which the Hotel is being constructed (which is located at the southeast corner of the Master Development), but is a lessee pursuant to a 99-year ground lease for such real property (the “Ground Lease”) with the Debtor’s affiliate, The Source at Beach, LLC.

1 Construction of the Hotel began in 2016. To finance the construction of the Hotel, on  
2 May 24, 2016, the Debtor obtained a \$29.5 million construction loan (the “Loan”) from Evertrust  
3 Bank (“Evertrust”) as well as financing by three tranches of EB-5 investments totaling \$35.5  
4 million. The Debtor’s obligations under the Loan are secured by liens against substantially all of  
5 the Debtor’s assets, including the Hotel and the Debtor’s leasehold interest in the real property  
6 that is the subject of the Ground Lease (the “Leasehold Interest”). The original maturity date for  
7 the Loan was December 1, 2017, but was extended to November 1, 2019 pursuant to written  
8 extension agreements entered into by the parties.

9 Through October 2019, approximately 85% of the Hotel construction had been  
10 completed, including: substantial completion of the core and shell, exterior painting, porte  
11 cochère, street lighting, ceiling framing, kitchen framing and glass block installation, food  
12 storages, all glass storefronts, electrical wiring and switchgear, guestroom flooring, ceiling  
13 fixtures, pool bar canopy structure, deck drains, window washing system, roof membrane, roof  
14 ductwork and HVAC vibration installation; nearly complete installation of bathroom fixtures  
15 (95%), acoustic ceiling system (80%), HVAC electrical connections (90%), piping for HVAC  
16 and plumbing equipment (95%), and rooftop ductwork (99%). In addition, substantial materials  
17 have been procured and/or fabricated and are ready for installation pending completion of other  
18 items, such as first and second floor flooring, corridor carpeting, millwork (wall and ceiling  
19 panels, pool bar), passenger elevators, fire sprinklers, egress and accent lighting, pool equipment,  
20 guest room doors, locks and closures, bathroom fixtures, and rooftop HVAC equipment.

21 The approximately 15% of the Hotel construction which remains outstanding consists of  
22 mostly “finish work” such as the installation of flooring and carpeting, lighting, appliances, trade  
23 fixtures, furniture, furnishings and equipment already purchased by the Debtor (collectively,  
24 “FF&E”).

25 The Debtor’s primary assets consist of the Hotel, the Leasehold Interest, and a substantial  
26 amount of FF&E. The Debtor believes that the current value of the Hotel in “as is” condition is  
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1 at least \$50,000,000 and that its fair market value upon completion will be at least \$60,000,000.<sup>1</sup>

2 The Debtor also believes that the total value of the FF&E (calculated at cost, excluding  
3 fabrication labor costs) is approximately \$2,700,000.

4 The Debtor's primary secured creditor is Shady Bird Lending, LLC ("Shady Bird"), who  
5 acquired the Loan from Evertrust in December, 2020. Shady Bird contends that the outstanding  
6 balance of the Loan was \$30,948,839.27 as of March 1, 2021. As noted above, the Debtor's  
7 obligations under the Loan are secured by liens against substantially all of the Debtor's assets,  
8 including the Hotel, the Leasehold Interest, and the FF&E.

9 There are a number of subcontractors that have recorded mechanics' liens against the  
10 Debtor and/or Hotel. As reflected in the Debtor's Schedules of Assets and Liabilities filed in this  
11 case [Doc. No. 32] (the "Schedules"), the Debtor believes that the total amount of the mechanics'  
12 liens recorded against the Debtor and/or Hotel is approximately \$2,900,000. However, some of  
13 these recorded mechanics' liens appear to have expired or have not been properly perfected, or  
14 are otherwise disputed by the Debtor.

15 The Debtor also received three tranches of EB-5 loans from Beach Orangethorpe Hotel,  
16 LLC, Beach Orangethorpe Hotel II, LLC, and Beach Orangethorpe Hotel III, LLC (collectively,  
17 the "EB-5 Investors," or individually, an "EB-5 Investor"). The Debtor's obligations under the  
18 loans from two of the EB-5 Investors (*i.e.*, Beach Orangethorpe Hotel, LLC and Beach  
19 Orangethorpe Hotel II, LLC), in the total principal sum of \$21,500,000, are secured by junior  
20 liens against the Hotel and the Leasehold Interest. The Debtor's obligations under the loan from  
21 the third EB-5 Investor, Beach Orangethorpe Hotel III, LLC, in the principal sum of  
22 \$14,500,000, are unsecured.

23 In addition to the unsecured loan from Beach Orangethorpe Hotel III, LLC, the Debtor  
24 believes it has other general unsecured debt totaling approximately \$2,150,000.

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26  
27 <sup>1</sup> HVS Consulting & Valuation previously prepared an appraisal report for the Hotel, which  
28 reflected an "as is" value of \$40,900,000 for the Hotel as of October 14, 2019. The Debtor and  
its Manager are in the process of obtaining an updated appraisal of the Hotel.

II.

**EVENTS LEADING TO DEBTOR'S BANKRUPTCY FILING**

In late 2019, Evertrust refused to issue the remaining \$4 million of the Loan, claiming a cost overrun on the construction of the Hotel. As a result of Evertrust's refusal to provide the final \$4 million of the Loan, the Debtor was forced to cease construction activities. However, the Debtor believes strongly that, had Evertrust funded the final \$4 million as expected, construction of the Hotel would have been completed, as the Debtor believes that its contractors would have carried fifty percent of the cost overrun and the Debtor and its affiliates would have covered the remaining fifty percent of the overrun.

When Evertrust refused to issue the remaining \$4 million of the Loan, the Debtor immediately and actively sought to refinance the Loan. The Debtor began discussions with a new lender named Hall Structured Finance ("Hall") in the fall of 2019 and was ultimately able to reach an agreement with Hall for refinancing in the total sum of \$42 million. During the course of the Debtor's refinancing discussions with Hall, the Debtor kept Evertrust apprised of all developments, and even provided Evertrust with a copy of the loan commitment letter from Hall in early 2020. The Debtor and Hall were on the verge of closing on the refinancing, with a target closing date of March 20, 2020, when local, county, and State officials issued lockdown orders as a result of the COVID-19 pandemic. At that point, Hall put an indefinite hold on the closing of the refinancing with the Debtor.

As a result, the Debtor went back to Evertrust and, between March 2020 and December 2020, engaged in active forbearance negotiations with Evertrust to obtain a further extension of the Loan maturity date so that the Hotel could recover from the effects of the COVID-19 pandemic, and the Debtor could obtain refinancing or additional construction financing and ultimately recommence construction of the Hotel.

In the summer of 2020, while the Debtor and Evertrust were still engaged in forbearance negotiations, Evertrust commenced litigation against the guarantors of the Loan, Donald Chae and Min Chae, and recorded a Notice of Default against the Hotel.

1 Subsequently, in December 2020, Shady Bird purchased Evertrust's interests in the Loan  
2 at a significant discount, for a reported purchase price of approximately \$19 million. While the  
3 Debtor engaged in discussions and negotiations with Shady Bird to attempt to reach a consensual  
4 resolution of the parties' disputes, such discussions and negotiations were ultimately  
5 unsuccessful.

6 On February 8, 2021, Shady Bird filed a complaint against the Debtor in the Superior  
7 Court of the State of California for the County of Orange ("Superior Court") for (i) specific  
8 performance and appointment of a receiver, and (ii) waste, thereby commencing the Superior  
9 Court action bearing the case number 30-2021-01183489-CU-OR-CJC (the "State Court  
10 Action"). Shady Bird also took steps to immediately foreclose on the Hotel and issued a Notice  
11 of a Trustee's Sale for the Hotel to be held on March 1, 2021.

12 Shortly after filing its complaint to initiate the State Court Action, Shady Bird filed an ex  
13 parte application for an order appointing a receiver and other related relief. On February 17,  
14 2021, the Superior Court entered an order in the State Court Action appointing Bellann R. Raile  
15 as Receiver to, among other things, take possession of the Hotel and all goods, furniture, fixtures,  
16 and equipment attached and/or related to the Hotel.

17 As a result of the foregoing, the Debtor sought chapter 11 bankruptcy protection on the  
18 Petition Date (*i.e.*, February 26, 2021) in order to prevent the impending foreclosure of the Hotel,  
19 to regain possession of the Hotel and related assets and obtain refinancing or investments to  
20 enable the Debtor to complete construction of the Hotel, and to obtain a reasonable opportunity  
21 to restructure its financial affairs and repay its debts in an orderly fashion.

### 22 III.

#### 23 ISSUES WHICH WILL NEED TO BE ADDRESSED IN THE DEBTOR'S CASE 24 TO SUCCESSFULLY REORGANIZE

25 On March 25, 2021, Shady Bird filed that certain *Motion Of Shady Bird Lending, LLC*  
26 *For Order Designating Chapter 11 Case As Single Asset Real Estate Case Pursuant To 11*  
27 *U.S.C. §§ 101(51B) And 362(d)(3)* [Doc. No. 49] (the "SARE Motion"), pursuant to which  
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Shady Bird sought the entry of a Court order designating the Debtor's chapter 11 bankruptcy case as a "single asset real estate" case pursuant to 11 U.S.C. §§ 101(51B) and 362(d)(3). On April 1, 2021, the Debtor filed its opposition to the SARE Motion [Doc. No. 64] and, on April 8, 2021, Shady Bird filed its reply to the Debtor's opposition to the SARE Motion [Doc. No. 73]. At the hearing on the SARE Motion held on April 15, 2021, the Court denied the SARE Motion. Accordingly, the Debtor's bankruptcy case is not deemed to be a "single asset real estate" case.

As noted above, the Receiver was appointed by the Superior Court shortly before the Petition Date. On March 25, 2021, Shady Bird filed that certain *Motion Of Shady Bird Lending, LLC For Order Excusing State Court Receiver From Turnover Of Assets Pursuant To 11 U.S.C. § 543* [Doc. No. 51] (the "Receiver Motion"), pursuant to which Shady Bird sought the entry of a Court order excusing the Receiver from complying with the requirements of 11 U.S.C. § 543, specifically, the requirement to deliver to the Debtor all property belonging to the Debtor over which the Receiver currently has possession, custody or control. On April 1, 2021, the Debtor filed its opposition to the Receiver Motion [Doc. No. 65] and, on April 8, 2021, Shady Bird filed its reply to the Debtor's opposition to the Receiver Motion [Doc. No. 72]. At the hearing on the Receiver Motion held on April 15, 2021, the Court granted the Receiver Motion on an interim basis only, to permit the Receiver to make certain repairs and perform certain work on the Hotel with funds "gifted" to the Debtor's estate by Shady Bird (up to \$200,000), pending a continued hearing on the Receiver Motion to be held on June 3, 2021.

On April 1, 2021, Shady Bird filed that certain *Notice Of Motion And Motion For Relief From The Automatic Stay Under 11 U.S.C. § 363 (Real Property)* [Doc. No. 62] (the "RFS Motion"), pursuant to which Shady Bird seeks relief from the automatic stay so that it may foreclose on the Hotel. On April 8, 2021, the Debtor filed its opposition to the RFS Motion [Doc. No. 74] and, on April 15, 2021, Shady Bird filed its reply to the Debtor's opposition to the RFS Motion [Doc. No. 81]. A hearing on the RFS Motion is set for April 22, 2021 at 10:00 a.m. If the Court grants the RFS Motion, and Shady Bird is permitted to foreclose upon the Hotel and the Debtor's other assets, there will be no reason for this bankruptcy case to proceed. However,

1 if the Court denies the RFS Motion, the Debtor will proceed with its efforts to obtain debtor-in-  
2 possession, takeout, or exit financing so that it may complete the construction of the Hotel and  
3 bring the Hotel into operation, and to propose and seek confirmation of a plan of reorganization  
4 which restructures its debts in an orderly fashion.

5 The Debtor has been, and continues to be, engaged in active discussions with numerous  
6 prospective lenders regarding the terms for debtor-in-possession and/or exit financing, which  
7 will provide the Debtor with the funding necessary to complete the construction of the Hotel,  
8 service debt, operate the Hotel until operations can be stabilized, and potentially fund a feasible  
9 plan of reorganization in the Debtor's case. The Debtor believes that it can successfully  
10 complete the construction of the Hotel and satisfy valid mechanic's liens recorded against the  
11 Hotel if the Debtor obtains additional financing of approximately \$12,000,000 - \$16,000,000.  
12 The Debtor also believes that the construction of the Hotel can be completed and a certificate of  
13 occupancy obtained within 9-12 months from the date of restarting construction. If the Debtor  
14 ultimately proceeds with debtor-in-possession financing (instead of exit financing), the Debtor  
15 will file a motion for Court approval of such financing as soon as it is in a position to do so. If  
16 the Debtor proceeds with exit financing, the Debtor will likely propose a plan of reorganization,  
17 in conjunction with its proposed lender and plan supporter, which provides for the restructuring  
18 and/or repayment of the Debtor's secured debt, and provides for a recovery to the Debtor's  
19 general unsecured creditors who would otherwise receive nothing.

20 Although the Debtor has had only preliminary discussions with certain of the EB-5  
21 Lenders, the Debtor is optimistic that the secured EB-5 Lenders will support the Debtor's efforts  
22 to restructure its debts and bring the Hotel into operation and, to that end, may be willing to  
23 convert their secured claims into equity in the reorganized debtor entity.

24 **IV.**

25 **POST-PETITION ADMINISTRATION AND CASH COLLATERAL USE**

26 As of the Petition Date, the Debtor had cash totaling approximately \$63,000 in bank  
27 accounts with Evertrust and Preferred Bank. The Debtor took steps immediately after the  
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1 Petition Date to close its pre-petition bank accounts at Evertrust and Preferred Bank, and to  
2 withdraw all funds contained in those pre-petition accounts so that such funds could be deposited  
3 into the Debtor's newly-established debtor-in-possession bank accounts at Axos Bank.

4 All of the cash that the Debtor was holding as of the Petition Date was from pre-petition  
5 advances made to the Debtor by its non-member Manager, M+D Properties, a California  
6 corporation ("M+D"). Although none of the Debtor's cash was derived from the rental or other  
7 use of the Hotel (or any of the Debtor's other assets), and therefore none of the cash that the  
8 Debtor was holding as of the Petition Date constituted Shady Bird's property or collateral, in an  
9 abundance of caution, the Debtor filed a motion seeking Court authority to use its cash on hand  
10 to pay expenses related to the maintenance and preservation of the Hotel. Specifically, on March  
11 12, 2021, the Debtor filed the *Debtor's Notice Of Motion And Motion For Entry Of An Order:*  
12 *(A) Requiring Turnover Of Estate Cash By Evertrust Bank; (B) Authorizing Debtor To Use Cash*  
13 *Collateral; And (C) Authorizing Debtor To Obtain Post-Petition Financing From M+D*  
14 *Properties On An Unsecured Basis* [Doc. No. 21] (the "CC/Financing Motion"). Pursuant to the  
15 CC/Financing Motion, the Debtor sought the entry of a Court order (i) requiring Evertrust to turn  
16 over and deliver to the Debtor cash held in the Debtor's pre-petition bank accounts at Evertrust  
17 (as Shady Bird would not consent to the turnover of such cash until after the Debtor filed the  
18 CC/Financing Motion); (ii) authorizing the Debtor to use cash collateral in accordance with the  
19 Debtor's proposed 13-week operating budget (the "Budget"); and (iii) authorizing the Debtor to  
20 obtain post-petition unsecured financing up to \$100,000 (the "DIP Loan") from the Debtor's  
21 manager, M+D. The Budget provides for the payment of expenses critical to the maintenance  
22 and preservation of the Hotel, including insurance premiums, utility expenses, post-petition  
23 utility deposits, and real property taxes.

24 On March 23, 2021, the Court entered an order granting the CC/Financing Motion on an  
25 interim basis, pending a final hearing scheduled on May 6, 2021, subject to certain minor  
26 modifications agreed to by the Debtor and set forth in such order [Doc. No. 46] (the "Interim  
27 Order"). The final hearing on the CC/Financing Motion will be held on May 6, 2021 at 10:30  
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1 a.m. (on the same date and at the same time as the chapter 11 status conference in this case).

2 The Debtor has paid the expenses set forth in the Budget, including secured real property  
3 taxes which came due in April, 2021, in accordance with the terms of the Interim Order.

4 **V.**

5 **COMPLIANCE WITH REPORTING REQUIREMENTS**

6 The Debtor believe that it is in substantial compliance with all of its duties under 11  
7 U.S.C. §§ 521, 1106 and 1107, and all applicable guidelines of the Office of the United States  
8 Trustee (“OUST”).

9 The Debtor filed its 7-Day Package with the OUST on a timely basis on March 5, 2021.  
10 On March 17, 2021, the Debtor filed a supplement to its 7-Day Package to include a recorded  
11 copy of its Voluntary Petition.

12 The Debtor filed its Schedules and Statement of Financial Affairs on a timely basis on  
13 March 12, 2021.

14 On March 15, 2021, the Debtor attended the Initial Debtor Interview conducted by the  
15 OUST. Thereafter, on April 9, 2021, the Debtor attended its Section 341(a) meeting of creditors,  
16 which was also conducted by the OUST.

17 The Debtor has filed its first monthly operating report (covering the post-petition period  
18 of February 26-28, 2021) with the Court, and anticipates filing its monthly operating report for  
19 the month of March, 2021 shortly.

20 **VI.**

21 **EMPLOYMENT OF PROFESSIONALS**

22 On March 10, 2021, the Debtor filed its application to employ Levene, Neale, Bender,  
23 Yoo & Brill L.L.P. (“LNBYB”) as its bankruptcy counsel [Doc. No. 16]. The Court entered an  
24 order approving the Debtor’s application to employ LNBYB as its bankruptcy counsel on March  
25 31, 2021 [Doc. No. 61].

1 The Debtor does not intend to employ any other professionals at this time. However,  
2 should the foregoing change, the Debtor will promptly file applications to employ such  
3 professionals with the Court.

4 **VII.**

5 **OTHER INFORMATION REQUIRED BY STATUS CONFERENCE ORDER**

6 **A. Proposed Deadlines For Filing Proofs Of Claim And Objections To Claims.**

7 The Debtor respectfully requests that the Court establish a deadline for creditors to file  
8 proofs of claim in the Debtor's bankruptcy case ("Claims Bar Date") so that the Debtor may  
9 understand the total amount and types of claims that its creditors are asserting, and which claims  
10 will ultimately need to be accounted for in any plan of reorganization formulated and filed by the  
11 Debtor in this case. The Debtor requests that the Court establish Friday, July 9, 2021 as the  
12 Claims Bar Date in this case so that the Debtor may provide at least sixty (60) days' written  
13 notice of the Claims Bar Date to all creditors and parties in interest.

14 The Debtor anticipates that its plan of reorganization will provide for a deadline by which  
15 objections to claims must be filed and, therefore, requests that the Court not establish a deadline for  
16 filing objections to claims at this time. However, if the Court requires that such a deadline be set  
17 now, the Debtor respectfully requests that the deadline be set approximately 180 days after the  
18 Claims Bar Date.

19 **B. Proposed Deadline For Filing Plan And Disclosure Statement.**

20 Although the Debtor hopes to be in a position to file a plan of reorganization and disclosure  
21 statement within its current plan filing exclusivity period (*i.e.*, by June 25, 2021), in the event that  
22 the Debtor determines it requires additional time to do so (which will be the case if the Debtor files  
23 a motion seeking Court approval of debtor-in-possession financing in the meantime), the Debtor  
24 will file a motion seeking the entry of a Court order extending the exclusivity periods for the  
25 Debtor to file and solicit a plan of reorganization pursuant to 11 U.S.C. § 1121(d).

1 Based on the foregoing, the Debtor respectfully requests that the Court not set deadlines for  
2 the filing of a disclosure statement and plan of reorganization at this time, or alternatively, requests  
3 that the Court establish deadlines for doing so no earlier than September 30, 2021.

4 **C. Significant Unexpired Leases And Executory Contracts.**

5 The Debtor is the lessee under the Ground Lease with its affiliate, The Source at Beach,  
6 LLC. The Ground Lease is for a term of 99 years, with approximately 93 years of such term  
7 remaining, and relates to the real property (the "dirt") upon which the Hotel has been  
8 constructed. The Ground Lease remains fully effective, and the Debtor intends to assume the  
9 Ground Lease through its bankruptcy case.

10 The Debtor is not a party to any real property leases other than the Ground Lease.

11 As reflected in the Schedules, the Debtor is a party to a number of construction related  
12 services agreements as well as a third-party hotel management agreement. It is possible that  
13 some of these agreements have expired by their own terms or have been terminated by the  
14 counterparties to such agreements but, generally, such agreements have been held in abeyance  
15 since Hotel construction activities ceased in late 2019.

16 Dated: April 21, 2021

THE SOURCE HOTEL, LLC

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19 By: \_\_\_\_\_

20 RON BENDER  
21 JULIET Y. OH  
22 LEVENE, NEALE, BENDER, YOO  
& BRILL L.L.P.  
23 Attorneys for Chapter 11 Debtor and  
24 Debtor-in-Possession  
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**DECLARATION OF DONALD CHAE**

I, Donald Chae, hereby declare as follows:

1. I am the Manager and a member of DMC Investment Holdings, LLC, which is the sole member of The Source Hotel, LLC, a California limited liability company and the debtor and debtor-in-possession herein (the “Debtor”), and I am therefore familiar with the business operations and financial records of the Debtor. I have personal knowledge of the facts set forth below and, if called to testify, I would and could competently testify thereto.

2. I make this declaration in support of the Debtor’s status report (the “Status Report”) to which this declaration is attached. All capitalized terms not specifically defined herein shall have the meanings ascribed to them in the Status Report.

3. The Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on February 26, 2021 (the “Petition Date”). The Debtor is continuing to manage its financial affairs and operate its bankruptcy estate as a debtor-in-possession.

4. Since at least 2014, Debtor has been developing a full-service, seven-story hotel with 178 rooms in the City of Buena Park, County of Orange, State of California (the “Hotel”), which upon completion will include conference rooms, an executive lounge, fitness center, restaurant, bars, and cleaning services. The Hotel is part of a larger 12.8-acre mixed-use development project (the “Master Development”), which includes a 400,000 square-foot retail center and a 50,000 square-foot seven-story office building which were completed in 2016. The Debtor does not own the real property on which the Hotel is being constructed (which is located at the southeast corner of the Master Development), but is a lessee pursuant to a 99-year ground lease for such real property (the “Ground Lease”) with the Debtor’s affiliate, The Source at Beach, LLC.

5. The Ground Lease is for a term of 99 years, with approximately 93 years of such term remaining, and relates to the real property (the “dirt”) upon which the Hotel has been constructed. The Ground Lease remains fully effective, and the Debtor intends to assume the Ground Lease through its bankruptcy case.

1           6.       Construction of the Hotel began in 2016. To finance the construction of the Hotel,  
2 on May 24, 2016, the Debtor obtained a \$29.5 million construction loan (the “Loan”) from  
3 Evertrust Bank (“Evertrust”) as well as financing by three tranches of EB-5 investments totaling  
4 \$35.5 million. The Debtor’s obligations under the Loan are secured by liens against substantially  
5 all of the Debtor’s assets, including the Hotel and the Debtor’s leasehold interest in the real  
6 property that is the subject of the Ground Lease (the “Leasehold Interest”). The original maturity  
7 date for the Loan was December 1, 2017, but was extended to November 1, 2019 pursuant to  
8 written extension agreements entered into by the parties.

9           7.       Through October 2019, approximately 85% of the Hotel construction had been  
10 completed, including: substantial completion of the core and shell, exterior painting, porte cochère,  
11 street lighting, ceiling framing, kitchen framing and glass block installation, food storages, all glass  
12 storefronts, electrical wiring and switchgear, guestroom flooring, ceiling fixtures, pool bar canopy  
13 structure, deck drains, window washing system, roof membrane, roof ductwork and HVAC  
14 vibration installation; nearly complete installation of bathroom fixtures (95%), acoustic ceiling  
15 system (80%), HVAC electrical connections (90%), piping for HVAC and plumbing equipment  
16 (95%), and rooftop ductwork (99%). In addition, substantial materials have been procured and/or  
17 fabricated and are ready for installation pending completion of other items, such as first and second  
18 floor flooring, corridor carpeting, millwork (wall and ceiling panels, pool bar), passenger elevators,  
19 fire sprinklers, egress and accent lighting, pool equipment, guest room doors, locks and closures,  
20 bathroom fixtures, and rooftop HVAC equipment.

21           8.       The approximately 15% of the Hotel construction which remains outstanding  
22 consists of mostly “finish work” such as the installation of flooring and carpeting, lighting,  
23 appliances, trade fixtures, furniture, furnishings and equipment already purchased by the Debtor  
24 (collectively, “FF&E”).

25           9.       The Debtor’s primary assets consist of the Hotel, the Leasehold Interest, and a  
26 substantial amount of FF&E. I believe that the current value of the Hotel in “as is” condition is at  
27 least \$50,000,000 and that the fair market value of the Hotel upon completion will be at least  
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1 \$60,000,000. HVS Consulting & Valuation previously prepared an appraisal report for the Hotel,  
2 which reflected an “as is” value of \$40,900,000 for the Hotel as of October 14, 2019. The Debtor  
3 and its Manager are in the process of obtaining an updated appraisal of the Hotel.

4 10. I believe that the total value of the Debtor’s FF&E (calculated at cost, excluding  
5 fabrication labor costs) is approximately \$2,700,000.

6 11. The Debtor’s primary secured creditor is Shady Bird Lending, LLC (“Shady Bird”),  
7 who I understand acquired the Loan from Evertrust in December, 2020. Shady Bird contends that  
8 the outstanding balance of the Loan was \$30,948,839.27 as of March 1, 2021.

9 12. I understand and believe that there are a number of subcontractors that have  
10 recorded mechanics’ liens against the Debtor and/or Hotel. As reflected in the Debtor’s Schedules  
11 of Assets and Liabilities filed in this case (the “Schedules”), I believe that the total amount of the  
12 mechanics’ liens recorded against the Debtor and/or Hotel is approximately \$2,900,000. However,  
13 some of these recorded mechanics’ liens appear to have expired or have not been properly  
14 perfected, or are otherwise disputed by the Debtor.

15 13. The Debtor also received three tranches of EB-5 loans from Beach Orangethorpe  
16 Hotel, LLC, Beach Orangethorpe Hotel II, LLC, and Beach Orangethorpe Hotel III, LLC  
17 (collectively, the “EB-5 Investors,” or individually, an “EB-5 Investor”). The Debtor’s obligations  
18 under the loans from two of the EB-5 Investors (*i.e.*, Beach Orangethorpe Hotel, LLC and Beach  
19 Orangethorpe Hotel II, LLC), in the total principal sum of \$21,500,000, are secured by junior liens  
20 against the Hotel and the Leasehold Interest. The Debtor’s obligations under the loan from the  
21 third EB-5 Investor, Beach Orangethorpe Hotel III, LLC, in the principal sum of \$14,500,000, are  
22 unsecured.

23 14. In addition to the unsecured loan from Beach Orangethorpe Hotel III, LLC, I  
24 believe that the debtor has other general unsecured debt totaling approximately \$2,150,000.

25 15. In late 2019, Evertrust refused to issue the remaining \$4 million of the Loan,  
26 claiming a cost overrun on the construction of the Hotel. As a result of Evertrust’s refusal to  
27 provide the final \$4 million of the Loan, the Debtor was forced to cease construction activities.

28

1 However, I believe strongly that, had Evertrust funded the final \$4 million as expected,  
2 construction of the Hotel would have been completed, as I believe that the Debtor's contractors  
3 would have carried fifty percent of the cost overrun and the Debtor and its affiliates would have  
4 covered the remaining fifty percent of the overrun.

5 16. When Evertrust refused to issue the remaining \$4 million of the Loan, the Debtor  
6 immediately and actively sought to refinance the Loan. The Debtor began discussions with a new  
7 lender named Hall Structured Finance ("Hall") in the fall of 2019 and was ultimately able to reach  
8 an agreement with Hall for refinancing in the total sum of \$42 million. During the course of the  
9 Debtor's refinancing discussions with Hall, the Debtor kept Evertrust apprised of all developments,  
10 and even provided Evertrust with a copy of the loan commitment letter from Hall in early 2020.  
11 The Debtor and Hall were on the verge of closing on the refinancing, with a target closing date of  
12 March 20, 2020, when local, county, and State officials issued lockdown orders as a result of the  
13 COVID-19 pandemic. At that point, Hall put an indefinite hold on the closing of the refinancing  
14 with the Debtor.

15 17. As a result, the Debtor went back to Evertrust and, between March 2020 and  
16 December 2020, engaged in active forbearance negotiations with Evertrust to obtain a further  
17 extension of the Loan maturity date so that the Hotel could recover from the effects of the COVID-  
18 19 pandemic, and the Debtor could obtain refinancing or additional construction financing and  
19 ultimately recommence construction of the Hotel.

20 18. In the summer of 2020, while the Debtor and Evertrust were still engaged in  
21 forbearance negotiations, Evertrust commenced litigation against the guarantors of the Loan,  
22 Donald Chae and Min Chae, and recorded a Notice of Default against the Hotel.

23 19. Subsequently, in December 2020, Shady Bird purchased Evertrust's interests in the  
24 Loan at a significant discount, for a reported purchase price of approximately \$19 million. While  
25 the Debtor engaged in discussions and negotiations with Shady Bird to attempt to reach a  
26 consensual resolution of the parties' disputes, such discussions and negotiations were ultimately  
27 unsuccessful.

20. On February 8, 2021, Shady Bird filed a complaint against the Debtor in the Superior Court of the State of California for the County of Orange (“Superior Court”) for (i) specific performance and appointment of a receiver, and (ii) waste, thereby commencing the Superior Court action bearing the case number 30-2021-01183489-CU-OR-CJC (the “State Court Action”). Shady Bird also took steps to immediately foreclose on the Hotel and issued a Notice of a Trustee’s Sale for the Hotel to be held on March 1, 2021.

21. Shortly after filing its complaint to initiate the State Court Action, Shady Bird filed an ex parte application for an order appointing a receiver and other related relief. On February 17, 2021, the Superior Court entered an order in the State Court Action appointing Bellann R. Raile as Receiver to, among other things, take possession of the Hotel and all goods, furniture, fixtures, and equipment attached and/or related to the Hotel.

22. As a result of the foregoing, the Debtor sought chapter 11 bankruptcy protection on the Petition Date (*i.e.*, February 26, 2021) in order to prevent the impending foreclosure of the Hotel, to regain possession of the Hotel and related assets and obtain refinancing or investments to enable the Debtor to complete construction of the Hotel, and to obtain a reasonable opportunity to restructure its financial affairs and repay its debts in an orderly fashion.

23. Currently pending before the Court in the Debtor’s bankruptcy case is a motion filed by Shady bird for relief from the automatic stay so that Shady Bird may proceed with the foreclosure of the Hotel (the “RFS Motion”). The Debtor has filed an opposition to the RFS Motion. A hearing on the RFS Motion is set for April 22, 2021 at 10:00 a.m. If the Court grants the RFS Motion, and Shady Bird is permitted to foreclose upon the Hotel and the Debtor’s other assets, I do not believe there is any reason for the Debtor’s bankruptcy case to proceed. However, if the Court denies the RFS Motion, the Debtor will proceed with its efforts to obtain debtor-in-possession, takeout, or exit financing so that it may complete the construction of the Hotel and bring the Hotel into operation, and to propose and seek confirmation of a plan of reorganization which restructures its debts in an orderly fashion.

1           24.     The Debtor has been, and continues to be, engaged in active discussions with  
2 numerous prospective lenders regarding the terms for debtor-in-possession and/or exit financing,  
3 which will provide the Debtor with the funding necessary to complete the construction of the  
4 Hotel, service debt, operate the Hotel until operations can be stabilized, and potentially fund a  
5 feasible plan of reorganization in the Debtor's case.

6           25.     Based upon my 30 years plus of real estate development, construction, and  
7 management experience, I believe that the Debtor can successfully complete the construction of the  
8 Hotel and satisfy valid mechanic's liens recorded against the Hotel if the Debtor obtains additional  
9 financing of approximately \$12,000,000 - \$16,000,000. I also believe that the construction of the  
10 Hotel can be completed and a certificate of occupancy obtained within 9-12 months from the date  
11 of restarting construction. If the Debtor ultimately proceeds with debtor-in-possession financing  
12 (instead of exit financing), the Debtor will file a motion for Court approval of such financing as  
13 soon as it is in a position to do so. If the Debtor proceeds with exit financing, the Debtor will  
14 likely propose a plan of reorganization, in conjunction with its proposed lender and plan supporter,  
15 which provides for the restructuring and/or repayment of the Debtor's secured debt, and provides  
16 for a recovery to the Debtor's general unsecured creditors who would otherwise receive nothing.

17           26.     Although the Debtor has had only preliminary discussions with certain of the EB-5  
18 Lenders, I am optimistic that the secured EB-5 Lenders will support the Debtor's efforts to  
19 restructure its debts and bring the Hotel into operation and, to that end, may be willing to convert  
20 their secured claims into equity in the reorganized debtor entity.

21           27.     As of the Petition Date, the Debtor had cash totaling approximately \$63,000 in bank  
22 accounts with Evertrust and Preferred Bank. The Debtor took steps immediately after the Petition  
23 Date to close its pre-petition bank accounts at Evertrust and Preferred Bank, and to withdraw all  
24 funds contained in those pre-petition accounts so that such funds could be deposited into the  
25 Debtor's newly-established debtor-in-possession bank accounts at Axos Bank.

28. All of the cash that the Debtor was holding as of the Petition Date was from pre-petition advances made to the Debtor by its non-member Manager, M+D Properties, a California corporation ("M+D"), of which I am also the principal. Although none of the Debtor's cash was derived from the rental or other use of the Hotel (or any of the Debtor's other assets), and therefore none of the cash that the Debtor was holding as of the Petition Date constituted Shady Bird's property or collateral, in an abundance of caution, the Debtor filed a motion seeking Court authority to use its cash on hand to pay expenses related to the maintenance and preservation of the Hotel. Specifically, on March 12, 2021, the Debtor filed its motion the ("CC/Financing Motion") seeking the entry of a Court order (i) requiring Evertrust to turn over and deliver to the Debtor cash held in the Debtor's pre-petition bank accounts at Evertrust (as Shady Bird would not consent to the turnover of such cash until after the Debtor filed the CC/Financing Motion); (ii) authorizing the Debtor to use cash collateral in accordance with the Debtor's proposed 13-week operating budget (the "Budget"); and (iii) authorizing the Debtor to obtain post-petition unsecured financing up to \$100,000 (the "DIP Loan") from the Debtor's manager, M+D. The Budget provides for the payment of expenses critical to the maintenance and preservation of the Hotel, including insurance premiums, utility expenses, post-petition utility deposits, and real property taxes.

29. I am advised and believe that, on March 23, 2021, the Court entered an order granting the CC/Financing Motion on an interim basis, pending a final hearing scheduled on May 6, 2021, subject to certain minor modifications agreed to by the Debtor and set forth in such order (the "Interim Order"). I am further advised and believe that the final hearing on the CC/Financing Motion will be held on May 6, 2021 at 10:30 a.m. (on the same date and at the same time as the chapter 11 status conference in the Debtor's case).

30. The Debtor has paid the expenses set forth in the Budget, including secured real property taxes which came due in April, 2021, in accordance with the terms of the Interim Order

31. I believe that the Debtor is in substantial compliance with all of its duties under the Bankruptcy Code and all applicable guidelines of the Office of the United States Trustee ("OUST").

1           32.     The Debtor filed its 7-Day Package with the OUST on a timely basis on March 5,  
2 2021. On March 17, 2021, the Debtor filed a supplement to its 7-Day Package to include a  
3 recorded copy of its Voluntary Petition.

4           33.     The Debtor filed its Schedules and Statement of Financial Affairs on a timely basis  
5 on March 12, 2021.

6           34.     On March 15, 2021, I, on behalf of the Debtor, attended the Initial Debtor Interview  
7 conducted by the OUST. Thereafter, on April 9, 2021, I, on behalf of the Debtor, attended the  
8 Debtor's Section 341(a) meeting of creditors.

9           35.     The Debtor has filed its first monthly operating report (covering the post-petition  
10 period of February 26-28, 2021) and its monthly operating report for the month of March, 2021.

11           36.     The Debtor has obtained Court authority to employ Levene, Neale, Bender, Yoo &  
12 Brill L.L.P. as its bankruptcy counsel in this case.

13           37.     The Debtor does not intend to employ any other professionals at this time.  
14 However, should the foregoing change, the Debtor will promptly file applications to employ such  
15 professionals with the Court.

16           38.     The Debtor is not a party to any real property leases other than the Ground Lease.

17           39.     As reflected in the Schedules, the Debtor is a party to a number of construction  
18 related services agreements as well as a third-party hotel management agreement. It is possible  
19 that some of these agreements have expired by their own terms or have been terminated by the  
20 counterparties to such agreements but, generally, such agreements have been held in abeyance  
21 since Hotel construction activities ceased in late 2019.

22           I declare under penalty of perjury under the laws of the United States of America that the  
23 foregoing is true and correct.

24           Executed this 21st day of April, 2021, at Buena Park, California.

25  
26  
27  
28

  
\_\_\_\_\_  
DONALD CHAE

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled **DEBTOR'S CHAPTER 11 STATUS REPORT; DECLARATION OF DONALD CHAE IN SUPPORT THEREOF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **April 22, 2021**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Ron Bender rb@lnbyb.com
- Michael G Fletcher mfletcher@frandzel.com, sking@frandzel.com
- Amir Gamliel amir-gamliel-9554@ecf.pacerpro.com, cmallahi@perkinscoie.com; DocketLA@perkinscoie.com
- Robert P Goe kmurphy@goeforlaw.com, rgoe@goeforlaw.com; goeforecf@gmail.com
- Nancy S Goldenberg nancy.goldenberg@usdoj.gov
- Peter F Jazayeri peter@jaz-law.com
- Daniel A Lev dlev@sulmeyerlaw.com, ccaldwell@sulmeyerlaw.com; dlev@ecf.inforuptcy.com
- Grant A Nigolian grant@gnpclaw.com, process@gnpclaw.com; grant.nigolian@gmail.com
- Juliet Y Oh jyo@lnbrb.com, jyo@lnbrb.com
- Ho-El Park hpark@hparklaw.com
- Ronald N Richards ron@ronaldrichards.com, morani@ronaldrichards.com
- United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

**2. SERVED BY UNITED STATES MAIL:** On **April 22, 2021**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **April 22, 2021**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

None.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

April 22, 2021  
Date

Stephanie Reichert  
Type Name

/s/ Stephanie Reichert  
Signature

The Source Hotel, LLC  
OUST, Secured, Top 20, RSN

United States Trustee (SA)  
411 W Fourth St., Suite 7160  
Santa Ana, CA 92701-4500

**Secured Creditors:**

3D Design - Millwork  
8152 Indianapolis Ave.  
Huntington Beach, CA 92646

Aragon Construction, Inc.  
5440 Arrow Highway  
Montclair, CA 91763

Beach Orangethorpe II, LLC  
P.O. Box 489  
Buena Park, CA 90621

Beach Orangethorpe III, LLC  
P.O. Box 489  
Buena Park, CA 90621

Beach Orangethorpe, LLC  
P.O. Box 489  
Buena Park, CA 90621

Beachamp Distributing Co.  
1911 South Santa Fe Avenue  
Compton, CA 90221

Best Quality Painting  
818 N. Pacific Ave., #C  
Glendale, CA 91203

Certified Tile  
14557 Calvert St.  
Van Nuys, CA 91411

Evergreen Electric Construction  
629 Grove View Lane  
La Canada, CA 91011

Iron Mechanical  
721 North B Street  
Suite 100  
Sacramento, CA 95811

KS Steel Corp.  
1748 Industrial Way  
Los Angeles, CA 90023

Nemo & Rami  
1930 W. Holt Ave.  
Pomona, CA 91768

Northstar  
404 North Berry Street  
Brea, CA 92821-3104

Pan Pacific  
18250 Euclid Street  
Fountain Valley, CA 92708

PDG Wallcoverings  
26492 Via Juanita  
Mission Viejo, CA 92691

Prime Concrete Coatings  
6127 James Alan St.  
Cypress, CA 90630

Resco Electric Inc.  
2431 W. Washington Blvd. Suite B  
Los Angeles, CA 90018

Retrolock Corp  
17915 Railroad Street  
City of Industry, CA 91748

Salamander Fire Protection, Inc  
6103 Tyrone Street  
Van Nuys, CA 91401

Shady Bird Lending, LLC  
c/o Law Offices of Ronald Richards  
P.O. Box 11480  
Beverly Hills, CA 90213

Solid Construction  
883 Crenshaw Blvd.  
Los Angeles, CA 90005

Sunbelt Controls, Inc.  
888 E. Walnut Street  
Pasadena, CA 91101

Grant Nigolian, P.C.  
695 Town Center Drive, Suite 700  
Costa Mesa, CA 92626

Hunt Ortmann Palffy Nieves et al.  
301 North Lake Avenue, 7th Floor  
Pasadena, CA 91101-1807

Law Office of Ho-El Park, P.C.  
333 City Blvd. West, Suite 1700  
Orange, CA 92868

Law Office of Michael N. Berke  
25001 The Old Road  
Santa Clara, CA 91381

Law Offices of Dennis G. Cosso  
345 Oxford Drive  
Arcadia, CA 91007

Porter Law Group, Inc.  
7801 Folsom Blvd., Suite 101  
Sacramento, CA 95826

Robinson & Robinson, LLP  
2301 Dupont Drive, Suite 530  
Irvine, CA 92612-7502

Shady Bird Lending, LLC  
c/o Law Offices of Geoffrey Long  
1601 N. Sepulveda Blvd., No. 729  
Manhattan Beach, CA 90266

Splinter & Thai, LLP  
25124 Narbonne Ave., Suite 106  
Lomita, CA 90717-2140

**Top 20 Unsecured Creditors:**

Newgens, Inc.  
14241 Foster Rd.  
La Mirada, CA 90638

Cabrillo Hoist  
P.O. Box 3179  
Rancho Cucamonga, CA 91729

WESCO Distribution Inc.  
6251 Knott Ave.  
Buena Park, CA 90620

Harbor All Glass & Mirror, Inc.  
1926 Placentia Ave.  
Costa Mesa, CA 92627

Diablo Consulting  
13200 Crossroads Parkway N  
Ste. 115  
City of Industry, CA 91746

Ace Tek Roofing Co.  
747 S. Ardmore Ave., Suite 405  
Los Angeles, CA 90005

Morrow Meadows  
231 Benton Court  
City of Industry, CA 91789

Chefs Toys  
18430 Pacific Street  
Fountain Valley, CA 92708

Stumbaugh & Associates, Inc.  
3303 N. San Fernando Blvd  
Burbank, CA 91504

HBA Procurement, Inc.  
3216 Nebraska Ave.  
Santa Monica, CA 90404

OJ Insulation LP  
600 S Vincent Ave.  
Azusa, CA 91702

DKY Architects  
15375 Barranca Pkwy.  
Suite A-210  
Irvine, CA 92618

Master Glass  
2225 W. Pico Blvd, Unit C  
Los Angeles, CA 90006

Universal Flooring Systems  
15573 Commerce Lane  
Huntington Beach, CA 92649

L2 Specialties  
3613 W. Macarthur Blvd., #611  
Santa Ana, CA 92704

Ficcadenti Waggoner  
16969 Von Karman Avenue  
Suite 240  
Irvine, CA 92606

Retrolock Corp  
17915 Railroad Street  
City of Industry, CA 91748

American Engineering Laboratories Inc.  
PO Box 1816  
Whittier, CA 90609